IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY THE TWENTY FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR
: PRESENT :
THE HON'BLE MR.JUSTICE: **T.CH. SURYA RAO**

CRIMINAL PETITION No.3841 of 2004

Between:
Abdul Sami Khan, S/o. Abdul Hakeem Khan
(Service connection bearing no.K2-3910 in the name of M/s. Maheshwari Constructions 5-8-112 to 113, 2nd floor, 21st Century Complex, Nampally, Hyderabad)

Petitioner/Accused in Cr.No.1133/2004 of the A.P.T.S. (Team-III) Police Station, Hyderabad)

And

1. State of A.P. rep. by its Public Prosecutor, High Court of A.P., Hyderabad.
2. The Inspector of Police, A.P.T.S., Team-III, Hyderabad.
Respondents/

Complainants

COUNSEL FOR PETITIONER : MR. D.V.NAGARJUNA BABU
COUNSEL FOR RESPONDENT NO.1: THE PUBLIC PROSECUTOR

Petition under Section 438 of Crl.P.C. praying that in the circumstances stated therewith, the High Court will be pleased to enlarge the petitioner on bail in connection with Crime No.1133/2004 of the A.P.T.S. (Team-III) Police Station, Hyderabad on such terms and condition or conditions as may be deemed fit and proper in the circumstances of the case.

The Court made the following **ORDER:**

"Petitioner seeks bail in connection with the crime registered against him under Sections 135 and 138 of the Indian Electricity Act, 2003 ('for short' the Act"). He was arrested yesterday. i.e. on 24-8-2004 and produced before the Court for remand.

A perusal of Section 151 of the Act shows that the Court shall not take Cognizance of any offence, except on a complaint in writing lodged by the persons, who have been described, inter alia, in the said section. Even Section 135 (2) of the Act says that it is only authorized persons, who can enter and inspect the premises, so as to detect any unauthorised use of the electricity. Both the sections leave no room for any doubt that the competency of the Officer, who inspected the premises, is in question. That apart, it appears, the petitioner filed earlier a writ petition before this Court questioning the provisional assessment and the final assessment, and it is represented before me by the learned counsel for the petitioner that the writ petition has been allowed. Having regard to the same, the request of the petitioner for bail may be considered.

In the result, the petition is allowed, and the petitioner shall be enlarged on bail on his executing a bond for Rs.5,000/- (Rupees Five thousand only)

with two sureties for a like sum each, to the satisfaction of the First Addl. Metropolitan Sessions Judge, Hyderabad.

It is represented at this stage by the learned Counsel for the petitioner that despite oral instructions of this Court to the learned Public Prosecutor to instruct the Officer concerned not to effect the arrest, pending consideration of this application, and not withstanding the instructions given by the learned Public Prosecutor, the Officer concerned high-handedly arrested the petitioner and produced before the Court. It is open to the petitioner to initiate appropriate action if he is so advised."

ASSISTANT REGISTRAR

// TRUE COPY //

for ASSISTANT REGISTRAR

To

1. The I Addl. Metropolitan Sessions Judge, Hyderabad.
3. The Inspector of Police, A.P.T.S., Team-III, Hyderabad.
   Respondents/
2. The Superintendent, Central Prison, Chenchalguda, Hyderabad.
3. Two CCs to Public Prosecutor, High Court of A.P., Hyd (OUT)
4. One CC to Mr.D.V. Nagarjuna Babu, Advocate
5. One Spare Copy.

KK

HIGH COURT

TCSRJ

DT. 25-8-2004

BAIL ORDER

CRL.P.NO.3841 OF 2004

DIRECTION

Drafted by: KK
Drafted on: 25-8-2004

HIGH COURT

TCSRJ

DT. 25-8-2004

BAIL ORDER

CRL.P.NO.3841 OF 2004

DIRECTION